

REMARKS

Claims 1-37 are pending in the present application. In the above amendments, claims 1, 10, 25, 30 and 36 have been amended, and Claims 2, 11, 19-24 and 31 have been canceled without prejudice.

The 9/6/2005 Office Action rejected Claims 10-18 under 35 U.S.C. § 101 “because the claimed invention is directed to non-statutory subject matter. Claims 10-18 are directed to a system that is claimed as software, per se. All claims seem to be directed to software modules.”

Claims 10-18 recite a “system” with “means” plus function elements. Means-plus-function type claims are acceptable under 35 USC 112, paragraph 6. Claim 10 does not recite the word “software,” so there is nothing to suggest Claim 10 must be implemented in software. Applicants request removal of this rejection.

The Office Action rejected Claims 1-27 under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. The Office Action stated that “there is insufficient support within the specification to describe the relationship between the window size and the transmitted data packets. ... Page 14 ... does not explain to one of ordinary skill in the art how to determine the window size for this invention.”

“Window size” is clearly shown in Fig. 2 and described on page 2, paragraph 1005, page 4, paragraph 1010 and throughout the rest of the specification. As Fig. 2 shows and paragraph 1005 states, “window size” is the “amount of space, or “window”, available at the buffer for receiving more data” from the base station controller. Fig. 3 clearly shows a “window size monitoring module 306.” One of ordinary skill in the art would be able to read the specification and build a “window size monitoring module 306” to monitor space available in a buffer to receive more data.

Claim 1 recites “determining a window size of said buffer when said updated number of data packets transmitted from said buffer is equal to or greater than a threshold number.” As explained in the specification on page 10, the “triggering” event for “determining a window size of said buffer” is “when said updated number of data packets transmitted from said buffer is equal to or greater than a threshold number.” Claim 1 does not recite “determining a window size of said buffer based on said updated number of data packets transmitted from said buffer is

equal to or greater than a threshold number.” Thus, Claims 1-37 should satisfy the enablement requirement under 35 USC 112.

Claim 36 has been amended to recite proper antecedent basis.

The Office Action rejected Claims 1-2, 4, 6-7, 10-11, 13, 15-16, 19, 25, 30-31, 33 and 35 under 35 U.S.C. § 102(b) as being anticipated by Barzilai et al. (U.S. Patent No. 5,063,562).

Barzilai does not disclose “incrementing a flow indication counter indicating an updated number of data packets transmitted from a buffer.” The Office Action cites col. 6, lines 5-9 of Barzilai, but these lines describe counting “a number of packets that arrive at a node.” These lines do not disclose or teach “number of data packets transmitted from a buffer,” as recited in Claim 1. For this reason, Claim 1 should be allowable over Barzilai.

Also, Barzilai does not disclose a “base transceiver station” or a “base station controller,” as recited in Claim 1. For this reason, Claim 1 should be allowable over Barzilai.

Also, the “window size” in Barzilai, column 6, is not the same as the “window size” in Claim 1. Barzilai does not disclose or teach a “window size of said buffer available to store data packets,” as recited in Claim 1. For this reason, Claim 1 should be allowable over Barzilai.

Thus, Claim 1 and its dependent Claims 3-9 should be allowable for one or more of the reasons stated above. Claim 10 recites limitations that are similar to Claim 1. Claim 10 and its dependent Claims should be allowable for one or more of the reasons stated above. Claims 19-24 have been canceled. Claim 25 recites limitations that are similar to Claim 1. Claim 25 and its dependent Claims should be allowable for one or more of the reasons stated above. Claim 30 recites limitations that are similar to Claim 1. Claim 30 and its dependent Claims should be allowable for one or more of the reasons stated above.

The Office Action rejected Claims 3, 12, 20, 26 and 32 under 35 U.S.C. § 103(a) as being unpatentable over Barzilai. Claims 3, 12, 20, 26 and 32 should be allowable for one or more of the reasons stated above.

The Office Action also rejected Claims 5, 14, 21-22, 27 and 34 under 35 U.S.C. § 103(a) as being unpatentable over Barzilai in view of Mangin (U.S. Patent No. 6,925,060).

Neither Barzilai nor Mangin disclose a “base transceiver station” or a “base station controller,” as recited in Claims 1, 10, 25 and 30. For this reason, Claims 5, 14, 21-22, 27 and 34 should be allowable over Barzilai and Mangin.

The Office Action also rejected Claims 8-9, 17-18, 23-24, 28-29 and 36-37 under 35 U.S.C. § 103(a) as being unpatentable over Barzilai in view of Mogul (U.S. Patent No. 6,560,243).

Neither Barzilai nor Mogul disclose a "base transceiver station" or a "base station controller," as recited in Claims 1, 10, 25 and 30. For this reason, Claims 8-9, 17-18, 23-24, 28-29 and 36-37 should be allowable over Barzilai and Mogul.

Specification

The amendments to the specification are made by presenting marked-up replacement paragraphs that identify the changes. The amendments are primarily typographical or grammatical in nature, or involve minor clarifications of awkward wordings. These amendments are fully supported by the original disclosure and add no new matter to the application.

REQUEST FOR ALLOWANCE

In view of the foregoing, Applicants submit that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

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